

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY

ELI LILLY AND COMPANY,	)	
	)	
Plaintiff,	)	Honorable Dennis M. Cavanaugh
	)	
v.	)	
	)	
ACTAVIS ELIZABETH LLC, GLENMARK	)	
PHARMACEUTICALS INC., USA, SUN	)	
PHARMACEUTICAL INDUSTRIES LIMITED,	)	Civil Action No. 07-3770 (DMC)(MF)
SANDOZ INC., MYLAN	)	
PHARMACEUTICALS INC., APOTEX INC.,	)	
AUROBINDO PHARMA LTD., TEVA	)	
PHARMACEUTICALS USA, INC., SYNTHON)	)	
LABORATORIES, INC., ZYDUS	)	
PHARMACEUTICALS, USA, INC.	)	
	)	
Defendants.	)	
	)	

ORDER TO SEAL

THIS MATTER having been opened to the Court by Carella, Byrne, Bain Gilfillan, Cecchi, Stewart & Olstein (Melissa E. Flax, Esq.) and Rakoczy Molino Mazzochi Siwik (William A. Rakoczy, Esq.), counsel for Defendant Auobindo Pharma Ltd., for the entry of an Order filing documents under seal pursuant to L. Civ. R. 5.3, on notice to Pepper Hamilton (John C. Brenner, Esq.) and Sidley Austin (Thomas H. Beck, Esq.), attorneys for Plaintiff, and the Court having determined that (1) certain information contained in Auobindo Pharma Ltd.'s Memorandum of Law In Opposition to Eli Lilly and Company's Motion for Summary Judgment of Infringement; Auobindo Pharma Ltd.'s Responsive Statement of Material Facts to Eli Lilly and Company's L.R. 56.1 Statement of Facts in Support of Its Motion for Summary Judgment; and the Exhibits to the Declaration of Melissa E. Flax, Esq. In Opposition to Eli Lilly and Company's Motion for Summary Judgment of Infringement is proprietary, commercial, and

confidential, and is deemed "Confidential" pursuant to Fed. R. Civ. P. 26(c) and by the Discovery Confidentiality Order this Court entered on July 31, 2008; (2) there was "good cause" for entry of the Discovery Confidentiality Order, as set forth in the Declaration of William A. Rakoczy, counsel for Aurobindo, in support of the entry of the Discovery Confidentiality Order; (3) the same "good cause" exists for the entry of this sealing Order; (4) the information sought to be sealed contains: Non-public confidential information relating to Aurobindo's trade secrets or other confidential research, development and/or commercial information; non-public, confidential information relating to technical information relating to atomoxetine; and non-public, confidential information relating to proprietary information relating to drugs and drug applications filed with federal agencies, including FDA; (5) Aurobindo's Exhibits, Memorandum of Law and Responsive Statement of Undisputed Material Facts contain technical and confidential information concerning Aurobindo's proposed ANDA product and confidential communications with FDA; (6) Aurobindo would suffer substantial and significant harm if the confidential information set forth in Aurobindo's Exhibits, Memorandum of Law, and Responsive Statement of Undisputed Material Facts were disclosed to the public in contravention of the terms of the Discovery Confidentiality Order. If this information were disclosed to the public, Aurobindo's competitors would gain access to Aurobindo's confidential information, causing Aurobindo financial damages and other harm, such as damage to business relationships; (7) a redacted version of its Exhibits, Memorandum of Law, and Responsive Statement of Undisputed Material Facts is the least restrictive alternative available to protect information that is "Confidential" under the Discovery Confidentiality Order and pursuant to Fed. R. Civ. P. 26(c); and for good cause shown;

IT IS, on this 11th day of September, 2009,

**ORDERED** as follows:

1. Defendant Aurobindo Pharma Ltd.'s Motion to Seal be and is hereby granted.
2. The following documents containing proprietary, commercial, private and/or other confidential information be and are hereby sealed pursuant to L. Civ. R. 5.3(c):
  - (A) Exhibits 1-4 annexed to the Declaration of Melissa E. Flax, Esq. In Opposition to Eli Lilly and Company's Motion for Summary Judgment of Infringement be and are hereby sealed.
  - (B) Portions of Aurobindo Pharma Ltd.'s Memorandum of Law In Opposition to Eli Lilly and Company's Motion for Summary Judgment of Infringement be and are hereby sealed.
  - (C) Portions of Aurobindo Pharma Ltd.'s Responsive Statement of Material Facts to Eli Lilly and Company's L.R. 56.1 Statement of Facts in Support of Its Motion for Summary Judgment be and are hereby sealed.
3. Aurobindo will file publicly with the Court a redacted version of its Exhibits, Memorandum of Law and Responsive Statement of Undisputed Material Facts.



Hon. Mark Falk, U.S.M.J.